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9 Feb. 1972

## FULBRIGHT AMENDMENT (Thais in Laos)

I. Prohibition

The Fulbright Amendment prohibits financing of military operations of Thais designed to support the government of Laos. (See Attachment for Law.)

II. Unaffected Military ActivitiesA. The Fulbright Amendment does not prohibit financing military activities:

(1) "required to insure the safe and orderly withdrawal or disengagement of U. S. Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war," or \*

(2) maintained to keep the sanctuaries clear or counteract actions which would prevent Vietnamization, or

(3) which existed in August 1970 when the amendment was approved on the Senate floor.

B. The Fulbright Amendment does not affect the financing of "local forces" in Laos.III. Congressional CriticismA. Senator Case

(1) 23 April 1971, Case wrote State concerning an agreement with Thailand to finance and support Thai troops fighting in Laos in violation of the Fulbright Amendment.

(2) 19 May 1971, Abshire replied: "We believe that it has been made clear that this is not a question of U. S. support for regular Thai forces in Laos. The irregular forces involved, while raised and trained in Thailand, are all one-year volunteers who go to Laos to serve under the command of the Royal Lao government. These guerrilla forces are therefore considered to be local forces in Laos."

(3) 20 May 1971, Case made reference to 4,000 to 6,000 Thai troops in Laos and the fact that the U. S. Government, through the CIA, is paying for them despite a Congressional ban.

\*but see Senate floor debate on acceptance of provision

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B. Senator Fulbright

Fulbright wrote letter to State similar to Case's letter and received a similar reply.

C. Senator Kennedy

26 May 1971, in a letter to Kennedy, Abshire appeared to argue that operations in Northern Laos were necessary to U.S. troop withdrawal from South Vietnam.

D. Secret Session of Senate (held 7 June; made public 3 August 1971)

(1) Based upon classified report prepared in April of 1971 by Lowenstein and Moose, Symington charged that the Administration was violating the Fulbright Amendment. He charged the Laotian war was not directed through DOD where clearly understood Congressional controls apply, but rather through State and CIA, an agency which, through the National Security Council, reports directly to the President:

"It is a fact, however, that the United States is currently paying for foreign troops, for mercenaries if you will, despite legislation which, by letter as well as intent, was designed to prohibit any such practice. . . .

"The Thai forces in Laos are part of an irregular program. They are employed in conjunction with other, in effect, CIA-directed irregulars in Laos. They are recruited in Thailand. All costs are paid by the CIA, however, including both salaries and allowances.

These Thai forces are flown into Laos by Air America planes which in turn are hired by the U.S. Government.

If any of these Thai are wounded, at least some are thereupon evacuated by Air America to a U.S. Air Force field hospital at the Royal Thai Air Force Base at Udorn, in northern Thailand.

The facts with respect to U.S. support for Thai forces presently fighting in northern Laos were provided to the staff by U.S. Government officials. On their face they describe a situation which contravenes not only the intent, but also the actual letter, of the Fulbright amendments to last year's Defense authorization and appropriation bills. These amendments were specifically designed to prohibit the hiring of foreign troops, such as Thais, to defend the Governments of either Laos or Cambodia."

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(2) In rebuttal to Abshire's 19 May letter to Case, Symington said: "Common sense forces one to ask, how can these Thai irregulars in Laos be described as local forces? They are Thai, not Lao. They are recruited in Thailand, not Laos."

IV. Support of Administration's Position

- A. Senator Griffin, in rebutting Symington's comments concerning Abshire's 19 May letter, argued: "But are we going to say that the Laos military command cannot recruit volunteers... should limit the recruiting of troops in its own country?"
- B. 7 June, State spokesman described the Thai troops as volunteers from border areas of Thailand who were in Laos at the request of Premier Phouma and that U.S. support was consistent with relevant legislation.
- C. 9 August, The Washington Post reported at least some CIA-supported Thai irregulars fighting in Laos were recruited directly from ranks of Thai armed forces and asked to accept special assignments in all-Thai battalions fighting in Laos. In response, State spokesman said Thai soldiers in Laos fighting there in violation of the Geneva Accords of 1962, but only because some 80,000 North Vietnamese were moving against the neutralist country. He did not confirm or deny Post story and no mention was made of violation of U.S. statutes.

V. Subsequent Legislation

- A. 21 October 1971, the Foreign Assistance Act of 1971 was reported out by the Senate Foreign Relations Committee with a provision requiring:

"...specific Congressional authorization before funds from any U.S. Government agency or official could be made available 'for the purpose of financing any military operations by foreign forces in Laos... outside the borders of the country of the government or person receiving such funds...' In addition, the amendment would require the President to make available to the Congress copies of any agreements and other information bearing on such military operations."

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This amendment was reported out in light of "continuing reports about U. S. financing of Thais and Cambodian mercenaries in Laos, and even Thai mercenaries in Cambodia...." This provision obviously was directly aimed at the use of Thais as volunteers in Laos. It was deleted from the legislation in conference and did not become law. At a minimum this gives rise to an inference that, facing the issue squarely, the Congress did not see fit to overrule the Administration's contention that Thai volunteers qualify as local forces under the free-world forces provision of the Defense Authorization and Appropriations Acts.

Excerpt from Department of Defense Appropriation Act '72  
(Underscored portion is the Fulbright Amendment)

December 18, 1971

- 19 -

Pub. Law 92-204

85 STAT. 734

SEC. 737. None of the funds appropriated in this Act may be used to make payments under contracts for any program, project, or activity in a foreign country unless the Secretary of Defense or his designee, after consultation with the Secretary of the Treasury or his designee, certifies to the Congress that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law is not feasible for the purpose, stating the reason therefor.

Contract pay-  
ments in for-  
eign countries.

SEC. 738. (a) Not to exceed \$2,500,000,000 of the appropriations available to the Department of Defense during the current fiscal year shall be available for their stated purposes to support: (1) Vietnamese and other free world forces in support of Vietnamese forces; (2) local forces in Laos and Thailand; and for related costs, on such terms and conditions as the Secretary of Defense may determine: *Provided*, That none of the funds appropriated by this Act may be used for the purpose of paying any overseas allowance, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States under section 310 of title 37, United States Code, serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970: *Provided further*, That nothing in clause (1) of the first sentence of this subsection shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos: *Provided further*, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war.

Forces in Viet-  
nam, Laos, and  
Thailand, sup-  
port.

77 Stat. 216;  
79 Stat. 547.

(b) Within thirty days after the end of each quarter, the Secretary of Defense shall render to Congress a report with respect to the estimated value by purpose, by country, of support furnished from such appropriations.

Report to  
Congress.

SEC. 739. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget.

Working  
capital funds.  
76 Stat. 521.

SEC. 740. No part of the funds appropriated under this Act shall be used to pay salaries of any Federal employee who is convicted in any Federal, State, or local court of competent jurisdiction, of inciting, promoting, or carrying on a riot, or any group activity resulting in material damage to property or injury to persons, found to be in violation of Federal, State, or local laws designed to protect persons or property in the community concerned.

Payments to  
convicted  
rioters,  
prohibition.

SEC. 741. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

Loans to  
campus disrupt-  
ers, prohibi-  
tion.

Note for GLC:

Attached is the paper in which you expressed interest. While it focuses on a different problem, I think the concept expressed in it is equally valid in the case of the current problem.. Furthermore, I am not suggesting that it is the only or the most persuasive viewpoint. I do, however, think that it would hold a lot of water, even though a lot may not be enough

25X1



10 Feb. 1972

Note for: JMM  
GLC *gls*

The attached was drawn together in anticipation of Lowenstein and Moose's charges re Agency violation of the Fulbright amendment in Laos.

STATINTL

STATINTL

Copies have been sent to [ ] and [ ] for information and comment.

Also relevant but not attached is what the Director told the Senate Foreign Relations Committee on 23 March about *(p. 111)* Thais in Laos. This material has been pulled together and is available if needed.

*LLM*  
LLM